

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MARK A. LYNCH,

Plaintiff,

v.

9:15-CV-1234 (BKS/CFH)

**SERGEANT GUIDO, *Correctional Sgt.,
Schenectady County Jail, et al.,***

Defendants.

Appearances:

Mark A. Lynch
48930
Schenectady County Jail
320 Veeder Avenue
Schenectady, NY 12307
Plaintiff, pro se

Jonathan M. Bernstein, Esq.
Molly M. Ryan, Esq.
Goldberg, Segalla LLP
8 Southwoods Boulevard
Suite 300
Albany, NY 12211
Attorney for Defendants

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff Mark Lynch commenced this pro se civil rights action asserting claims under 42 U.S.C. § 1983 arising out of his incarceration at Schenectady County Correctional Facility. Dkt. No. 1. On October 19, 2016, Defendants filed a motion to dismiss for lack of prosecution under Fed. R. Civ. P. 41(b) and for summary judgment under Fed. R. Civ. P. 56. Dkt. No. 23. No response has been filed by Plaintiff. In fact, all mail sent to Plaintiff from the Court since

January 22, 2016 has been returned to the Court as undeliverable. Dkt. Nos. 15, 17, 20, 25 and 29. Notes on the envelopes that have been returned to the Court indicate that the Plaintiff has been released from the Schenectady County Jail. Dkt. Nos. 25, 29. This matter was referred to United States Magistrate Judge Christian F. Hummel who, on June 28, 2017, issued a Report-Recommendation and Order recommending that Defendants' motion to dismiss for lack of prosecution be granted and that Defendants' motion for summary judgment denied as moot. Dkt. No. 28. Magistrate Judge Hummel advised the parties that under 28 U.S.C. § 636(b)(1), and Local Rule 72.1(c), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. Dkt. No. 28, p. 7. No objections to the Report-Recommendation have been filed. Plaintiff's copy of the Report-Recommendation sent to him by the Court was returned as undeliverable. Dkt. No. 29.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228-29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Report-Recommendation is adopted in its entirety.

For these reasons, it is

ORDERED that the Report-Recommendation (Dkt. No. 28) is **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion to dismiss for lack of prosecution (Dkt. No. 23) is **GRANTED**; and it is further


ORDERED that Defendants' alternative motion for summary judgment (Dkt. No. 23) is **DENIED** as moot; and it is further

ORDERED that Plaintiff's complaint is **DISMISSED** in its entirety with prejudice; and it is further

ORDERED that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: August 8, 2017


Brenda K. Sannes
Brenda K. Sannes
U.S. District Judge